

LEGISLATURE OF NEBRASKA
NINETY-NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 679

Introduced by D. Pederson, 42

Read first time January 19, 2005

Committee: Appropriations

A BILL

1 FOR AN ACT relating to highways and bridges; to amend sections
2 39-2215, 39-2215.01, 39-2223, 39-2224, and 66-6,108,
3 Reissue Revised Statutes of Nebraska, and 66-4,100,
4 66-4,140, and 66-4,144, Revised Statutes Supplement,
5 2004; to delete obsolete provisions; to authorize the
6 issuance of highway bonds; to increase the principle
7 amount of the bonds; to harmonize provisions; and to
8 repeal the original sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 39-2215, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 39-2215. (1) There is hereby created in the state
4 treasury a special fund to be known as the Highway Trust Fund.

5 (2) All funds credited to the Highway Trust Fund pursuant
6 to sections 66-4,140, 66-4,147, and 66-6,108, and related penalties
7 and interest, shall be allocated as provided in such sections.

8 (3) All other motor vehicle fuel taxes, diesel fuel
9 taxes, compressed fuel taxes, and alternative fuel taxes related to
10 highway use retained by the state, all motor vehicle registration
11 fees retained by the state other than those fees credited to the
12 State Recreation Road Fund pursuant to section 60-302, and other
13 highway-user taxes imposed by state law and allocated to the
14 Highway Trust Fund, except for the proceeds of the sales and use
15 taxes derived from motor vehicles, trailers, and semitrailers
16 credited to the fund pursuant to section 77-27,132, are hereby
17 irrevocably pledged for the terms of the bonds issued prior to
18 January 1, 1988, to the payment of the principal, interest, and
19 redemption premium, if any, of such bonds as they mature and become
20 due at maturity or prior redemption and for any reserves therefor
21 and shall, as received by the State Treasurer, be deposited in the
22 fund for such purpose.

23 (4) Of the money in the fund specified in subsection (3)
24 of this section which is not required for the use specified in such
25 subsection, (a) an amount equal to three dollars times the number
26 of motorcycles registered during the previous month shall be placed
27 in the Motorcycle Safety Education Fund, (b) an amount to be
28 determined annually by the Legislature through the appropriations

1 process may be transferred to the Motor Fuel Tax Enforcement and
2 Collection Cash Fund for use as provided in section 66-738 on a
3 monthly or other less frequent basis as determined by the
4 appropriation language, (c) an amount to be determined annually by
5 the Legislature through the appropriations process shall be
6 transferred to the License Plate Cash Fund as needed to meet the
7 current obligations associated with the manufacture of license
8 plates and stickers or tabs provided for in sections 60-311,
9 60-311.02, and 60-1804, as certified by the Director of Motor
10 Vehicles, and (d) the remaining money may be used for the purchase
11 for retirement of the bonds issued prior to January 1, 1988, in the
12 open market.

13 (5) The State Treasurer shall monthly transfer, from the
14 proceeds of the sales and use taxes credited to the Highway Trust
15 Fund and any money remaining in the fund after the requirements of
16 subsections (2) through (4) of this section are satisfied, thirty
17 thousand dollars to the Grade Crossing Protection Fund.

18 (6) Except as provided in subsection (7) of this section,
19 the balance of the Highway Trust Fund shall be allocated
20 fifty-three and one-third percent, less the amount provided for in
21 section 39-847.01, to the Department of Roads, twenty-three and
22 one-third percent, less the amount provided for in section
23 39-847.01, to the various counties for road purposes, and
24 twenty-three and one-third percent to the various municipalities
25 for street purposes. If bonds are issued pursuant to subsection
26 ~~(2)~~ (1) of section 39-2223, the portion allocated to the Department
27 of Roads shall be credited monthly to the Highway Restoration and
28 Improvement Bond Fund, and if no bonds are issued pursuant to such

1 subsection, the portion allocated to the department shall be
2 credited monthly to the Highway Cash Fund. The portions allocated
3 to the counties and municipalities shall be credited monthly to the
4 Highway Allocation Fund and distributed monthly as provided by law.
5 Vehicles accorded prorated registration pursuant to section 60-356
6 shall not be included in any formula involving motor vehicle
7 registrations used to determine the allocation and distribution of
8 state funds for highway purposes to political subdivisions.

9 (7) If it is determined by December 20 of any year that a
10 county will receive from its allocation of state-collected highway
11 revenue and from any funds relinquished to it by municipalities
12 within its boundaries an amount in such year which is less than
13 such county received in state-collected highway revenue in calendar
14 year 1969, based upon the 1976 tax rates for highway-user fuels and
15 registration fees, the Department of Roads shall notify the State
16 Treasurer that an amount equal to the sum necessary to provide such
17 county with funds equal to such county's 1969 highway allocation
18 for such year shall be transferred to such county from the Highway
19 Trust Fund. Such makeup funds shall be matched by the county as
20 provided in sections 39-2501 to 39-2510. The balance remaining in
21 the fund after such transfer shall then be reallocated as provided
22 in subsection (6) of this section.

23 (8) The State Treasurer shall disburse the money in the
24 Highway Trust Fund as directed by resolution of the commission.
25 All disbursements from the fund shall be made upon warrants drawn
26 by the Director of Administrative Services. Any money in the fund
27 available for investment shall be invested by the state investment
28 officer pursuant to the Nebraska Capital Expansion Act and the

1 Nebraska State Funds Investment Act and the earnings, if any,
2 credited to the fund.

3 Sec. 2. Section 39-2215.01, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 39-2215.01. (1) There is hereby created in the state
6 treasury a fund to be known as the Highway Restoration and
7 Improvement Bond Fund.

8 (2) If bonds are issued pursuant to subsection ~~(2)~~ (1) of
9 section 39-2223, all motor vehicle fuel taxes, diesel fuel taxes,
10 compressed fuel taxes, and alternative fuel taxes related to
11 highway use, motor vehicle registration fees, and other
12 highway-user taxes which are retained by the state and allocated to
13 the bond fund from the Highway Trust Fund shall be hereby
14 irrevocably pledged for the terms of the bonds ~~issued after July 1,~~
15 ~~1988,~~ to the payment of the principal, interest, and redemption
16 premium, if any, of such bonds as they mature and become due at
17 maturity or prior redemption and for any reserves therefor and
18 shall, as received by the State Treasurer, be deposited directly in
19 the bond fund for such purpose. Of the money in the bond fund not
20 required for such purpose, such remaining money may be used for the
21 purchase for retirement of the bonds in the open market or for any
22 other lawful purpose related to the issuance of bonds, and the
23 balance, if any, shall be transferred monthly to the Highway Cash
24 Fund for such use as may be provided by law.

25 (3) The State Treasurer shall disburse the money in the
26 bond fund as directed by resolution of the commission. All
27 disbursements from the bond fund shall be made upon warrants drawn
28 by the Director of Administrative Services. Any money in the bond

1 fund available for investment shall be invested by the state
2 investment officer pursuant to the Nebraska Capital Expansion Act
3 and the Nebraska State Funds Investment Act.

4 Sec. 3. Section 39-2223, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 39-2223. ~~(1)~~ Under the authority granted by Article
7 XIII, section 1, of the Constitution of Nebraska, the Legislature
8 hereby authorizes the issuance of bonds in the principal amount of
9 twenty million dollars in 1969 and in the principal amount of
10 twenty million dollars on or before June 30, 1977, with the
11 proceeds thereof to be used for the construction of highways in
12 this state, the Legislature expressly finding that the need for
13 such construction requires such action. Such bonds shall in all
14 respects comply with the provisions of Article XIII, section 1, of
15 the Constitution of Nebraska.

16 ~~(2)~~ (1) (a) Under the authority granted by Article XIII,
17 section 1, of the Constitution of Nebraska, the Legislature hereby
18 authorizes ~~after July 1, 1988~~ on or before June 30, 2015, and
19 pursuant to subdivision (b) of this subsection the issuance of
20 bonds in a principal amount to be determined by the commission, not
21 to exceed ~~fifty~~ eight hundred million dollars of outstanding
22 principle amount at any one time.

23 (b) Any proposed bond issuance described in subdivision
24 (a) of this subsection shall first be reviewed by the Governor for
25 his or her recommendation. The commission shall forward the
26 Governor's recommendation together with a request to the
27 Legislature for approval or disapproval of any bond issuance, or if
28 the Legislature is not in session, the Executive Board of the

1 Legislative Council. Approval by the Legislature shall be by
2 resolution. Approval by the Executive Board of the Legislative
3 Council shall be by majority vote of its members.

4 (c) The outstanding principal amount of ~~such bonds~~ the
5 bonds authorized pursuant to this subsection may exceed ~~such the~~
6 limit described in subdivision (a) of this subsection if and to the
7 extent that the commission determines that the issuance of advance
8 refunding bonds under section 39-2226 in a principal amount greater
9 than the bonds to be refunded would reduce the aggregate bond
10 principal and interest requirements payable from the bond fund.

11 (2) The proceeds of ~~such the~~ issues described in
12 subsection (1) of this section shall be used exclusively:

13 (a) For ~~for~~ the construction, resurfacing,
14 reconstruction, rehabilitation, and restoration of highways in this
15 state, the Legislature expressly finding that the need for such
16 construction and reconstruction work and the vital importance of
17 the highway system to the welfare and safety of all Nebraskans
18 requires such action; ~~or~~

19 (b) ~~to~~ To eliminate or alleviate cash-flow problems
20 resulting from the receipt of federal funds. Such bonds shall in
21 all respects comply with the provisions of Article XIII, section 1,
22 of the Constitution of Nebraska.

23 Sec. 4. Section 39-2224, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 39-2224. ~~(1)~~ The proceeds of the sale of bonds
26 authorized by subsection (1) of section 39-2223 are hereby
27 appropriated to the Highway Cash Fund of the Department of Roads,
28 for the biennium ending June 30, 1977, for expenditure for the

1 ~~construction of highways.~~

2 ~~(2)~~ The proceeds of the sale of bonds authorized by
3 subsection ~~(2)~~ (1) of section 39-2223 are hereby appropriated to
4 the Highway Cash Fund of the Department of Roads for expenditure
5 for highway construction, resurfacing, reconstruction,
6 rehabilitation, and restoration and for the elimination or
7 alleviation of cash-flow problems resulting from the receipt of
8 federal funds.

9 Sec. 5. Section 66-4,100, Revised Statutes Supplement,
10 2004, is amended to read:

11 66-4,100. The Highway Cash Fund and the Roads Operations
12 Cash Fund are hereby created. If bonds are issued pursuant to
13 subsection ~~(2)~~ (1) of section 39-2223, the balance of the share of
14 the Highway Trust Fund allocated to the Department of Roads and
15 deposited into the Highway Restoration and Improvement Bond Fund as
16 provided in subsection (6) of section 39-2215 and the balance of
17 the money deposited in the Highway Restoration and Improvement Bond
18 Fund as provided in section 39-2215.01 shall be transferred by the
19 State Treasurer, on or before the last day of each month, to the
20 Highway Cash Fund. If no bonds are issued pursuant to subsection
21 ~~(2)~~ (1) of section 39-2223, the share of the Highway Trust Fund
22 allocated to the Department of Roads shall be transferred by the
23 State Treasurer on or before the last day of each month to the
24 Highway Cash Fund.

25 The Legislature may direct the State Treasurer to
26 transfer funds from the Highway Cash Fund to the Roads Operations
27 Cash Fund. Both funds shall be expended by the department (1) for
28 acquiring real estate, road materials, equipment, and supplies to

1 be used in the construction, reconstruction, improvement, and
2 maintenance of state highways, (2) for the construction,
3 reconstruction, improvement, and maintenance of state highways,
4 including grading, drainage, structures, surfacing, roadside
5 development, landscaping, and other incidentals necessary for
6 proper completion and protection of state highways as the
7 department shall, after investigation, find and determine shall be
8 for the best interests of the highway system of the state, either
9 independent of or in conjunction with federal-aid money for highway
10 purposes, (3) for the share of the department of the cost of
11 maintenance of state aid bridges, (4) for planning studies in
12 conjunction with federal highway funds for the purpose of analyzing
13 traffic problems and financial conditions and problems relating to
14 state, county, township, municipal, federal, and all other roads in
15 the state and for incidental costs in connection with the
16 federal-aid grade crossing program for roads not on state highways,
17 (5) for tests and research by the department or proportionate costs
18 of membership, tests, and research of highway organizations when
19 participated in by the highway departments of other states, (6) for
20 the payment of expenses and costs of the Board of Examiners for
21 County Highway and City Street Superintendents as set forth in
22 section 39-2310, and (7) for support of the public transportation
23 assistance program established under section 13-1209 and the
24 intercity bus system assistance program established under section
25 13-1213.

26 Any money in the Highway Cash Fund and the Roads
27 Operations Cash Fund not needed for current operations of the
28 department shall, as directed by the Director-State Engineer to the

1 State Treasurer, be invested by the state investment officer
2 pursuant to the Nebraska Capital Expansion Act and the Nebraska
3 State Funds Investment Act, subject to approval by the board of
4 each investment. All income received as a result of such
5 investment shall be placed in the Highway Cash Fund.

6 Sec. 6. Section 66-4,140, Revised Statutes Supplement,
7 2004, is amended to read:

8 66-4,140. (1) Each producer, supplier, distributor,
9 wholesaler, or importer required by section 66-489 to pay motor
10 fuels taxes shall, in addition to all other taxes provided by law,
11 pay an excise tax at a rate set pursuant to section 66-4,144 for
12 motor fuels received, imported, produced, refined, manufactured,
13 blended, or compounded by such producer, supplier, distributor,
14 wholesaler, or importer within the State of Nebraska as motor fuels
15 suitable for retail sale. All sums of money received under this
16 section shall be credited to the Highway Trust Fund. Credits and
17 refunds of such tax allowed to producers, suppliers, distributors,
18 wholesalers, or importers shall be paid from the Highway Trust
19 Fund. The balance of the amount credited, after credits and
20 refunds, shall be allocated to the Highway Restoration and
21 Improvement Bond Fund if bonds are issued pursuant to subsection
22 ~~(2)~~ (1) of section 39-2223 and to the Highway Cash Fund if no bonds
23 are issued pursuant to such subsection.

24 (2) Producers, suppliers, distributors, wholesalers, and
25 importers of motor fuels subject to taxation under subsection (1)
26 of this section shall pay such excise tax and shall make a report
27 concerning the tax in like manner, form, and time and be allowed
28 the same exemptions, deductions, and rights of reimbursement as are

1 authorized producers, suppliers, distributors, wholesalers, or
2 importers for taxes paid pursuant to Chapter 66, article 4.

3 Sec. 7. Section 66-4,144, Revised Statutes Supplement,
4 2004, is amended to read:

5 66-4,144. (1) In order to insure that an adequate
6 balance in the Highway Restoration and Improvement Bond Fund is
7 maintained to meet the debt service requirements of bonds to be
8 issued by the commission under subsection ~~(2)~~ (1) of section
9 39-2223, the Director-State Engineer shall certify to the
10 department the excise tax rate to be imposed by sections 66-4,140
11 and 66-6,108 for each year during which such bonds are outstanding
12 necessary to provide in each such year money equal in amount to not
13 less than one hundred twenty-five percent of such year's bond
14 principal and interest payment requirements. The department shall
15 adjust the rate as certified by the Director-State Engineer. Such
16 rate shall be in addition to the rate of excise tax set pursuant to
17 subsection (2) of this section. Each such rate shall be effective
18 from July 1 of a stated year through June 30 of the succeeding year
19 or during such other period not longer than one year as the
20 Director-State Engineer certifies to be consistent with the
21 principal and interest requirements of such bonds. Such excise tax
22 rates set pursuant to this subsection may be increased, but such
23 excise tax rates shall not be subject to reduction or elimination
24 unless the Director-State Engineer has received from the State
25 Highway Commission notice of reduced principal and interest
26 requirements for such bonds, in which event the Director-State
27 Engineer shall certify the new rate or rates to the department.
28 The new rate or rates, if any, shall become effective on the first

1 day of the following semiannual period.

2 (2) In order to insure that there is maintained an
3 adequate Highway Cash Fund balance to meet expenditures from such
4 fund as appropriated by the Legislature, by June 15 or five days
5 after the adjournment of the regular legislative session each year,
6 whichever is later, the Director-State Engineer shall certify to
7 the department the excise tax rate to be imposed by sections
8 66-4,140 and 66-6,108. The department shall adjust the rate as
9 certified by the Director-State Engineer to be effective from July
10 1 through June 30 of the succeeding year. The rate of excise tax
11 for a given July 1 through June 30 period set pursuant to this
12 subsection shall be in addition to and independent of the rate or
13 rates of excise tax set pursuant to subsection (1) of this section
14 for such period. The Director-State Engineer shall determine the
15 cash and investment balances of the Highway Cash Fund at the
16 beginning of each fiscal year under consideration and the estimated
17 receipts to the Highway Cash Fund from each source which provides
18 at least one million dollars annually to such fund. The rate of
19 excise tax shall be an amount sufficient to meet the appropriations
20 made from the Highway Cash Fund by the Legislature. Such rate
21 shall be set in increments of one-tenth of one percent.

22 (3) The Department of Roads shall provide to the
23 Legislative Fiscal Analyst a copy of the information that is
24 submitted to the Department of Revenue and used to set or adjust
25 the excise tax rate.

26 (4) If the actual receipts received to date added to any
27 projections or modified projections of deposits to the Highway Cash
28 Fund for the current fiscal year are less than ninety-nine percent

1 or greater than one hundred two percent of the appropriation for
2 the current fiscal year, the Director-State Engineer shall certify
3 to the department the adjustment in rate necessary to meet the
4 appropriations made from the Highway Cash Fund by the Legislature.
5 The department shall adjust the rate as certified by the
6 Director-State Engineer to be effective on the first day of the
7 following semiannual period.

8 (5) Nothing in this section shall be construed to
9 abrogate the duties of the Department of Roads or attempt to change
10 any highway improvement program schedule.

11 Sec. 8. Section 66-6,108, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 66-6,108. Each retailer shall, in addition to all other
14 taxes provided by law, pay an excise tax at the rate set pursuant
15 to section 66-4,144 on all gallons or gallon equivalents of
16 compressed fuel sold for use in registered motor vehicles. All
17 sums of money received under this section shall be credited to the
18 Highway Trust Fund. Credits and refunds of such tax allowed to
19 retailers shall be paid from the Highway Trust Fund. The balance
20 of the amount credited, after credits and refunds, shall be
21 allocated to the Highway Restoration and Improvement Bond Fund if
22 bonds are issued pursuant to subsection ~~(2)~~ (1) of section 39-2223
23 and to the Highway Cash Fund if no bonds are issued pursuant to
24 such subsection.

25 Sec. 9. Original sections 39-2215, 39-2215.01, 39-2223,
26 39-2224, and 66-6,108, Reissue Revised Statutes of Nebraska, and
27 66-4,100, 66-4,140, and 66-4,144, Revised Statutes Supplement,
28 2004, are repealed.